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12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 EASTERN DIVISION

15
16 United States of America,
17 Plaintiff,
18 vs.
19 Cary Yee, et al.,
20 Defendants.

Case No. CV 08-07602 PSG (SHx)
~~[Proposed]~~ Judgment and Order of Sale
Hearing before Judge Philip S. Gutierrez
Date: July 27, 2009
Time: 1:30 p.m.
Address:
Roybal Federal Building and
United States Courthouse
Courtroom 790
255 E. Temple Street,
Los Angeles, California, 90012

25 The Motion for Summary Judgment filed by the United States of America
26 (Plaintiff), came on for hearing before the Court on July 20, 2009. Based on the
27 papers filed in this case, the arguments advanced at the hearing, and all other
28 matters properly made part of the record,

1 IT IS ORDERED:

2 1. The United States of America has a valid federal tax lien, in the
3 amount of the unpaid tax liability, against the real property of Cary Yee and Nancy
4 Yee located in Riverside, California, which they own as joint tenants, ("the subject
5 property"), and is legally described as:

6 LOT 1 OF TRACT NO. 4804-1, EXCEPT THE SOUTH 5.00 FEET, PER MAP
7 RECORDED IN BOOK 78, PAGE 71 OF MAPS, IN THE OFFICE OF THE COUNTY
8 RECORDER OF RIVERSIDE COUNTY, STATE OF CALIFORNIA.

9 [Assessor Parcel No. 245-152-012-0]

10 2. Cary and Nancy Yee are liable for the balances due *in rem* with
11 respect to the subject property, for their 1991, 1993, and 1994 income tax years.

12 3. As of May 30, 2008, the balance due from Cary and Nancy Yee for the
13 1991, 1993, and 1994 income tax years were \$213,786.46, \$66,951.98, and
14 \$86,153.51 respectively, for a total of \$366,891.95.

15 4. The balance due includes both assessed and accrued liabilities (taxes,
16 additions to tax, interest, fees and collection costs).

17 5. The balance due to the United States for additions to tax and
18 interest, as permitted by law, continues to accrue after May 30, 2008.

19 6. The federal tax lien is hereby foreclosed against Cary Yee's and Nancy
20 Yee's interest in the subject property.

21 7. The subject property is ordered to be sold by the Area Director of the
22 Internal Revenue Service, Los Angeles, California Area (Area Director), or his
23 delegate, in accordance with the provisions of 28 U.S.C. § 2001 and 2002.

24 8. The Area Director, or his delegate, is ordered to sell the subject
25 property in accordance with 28 U.S.C. § 2001(a) and 2002. The property shall
26 be sold at a public sale to be held at the Los Angeles County Courthouse, 111
27 North Hill Street, Los Angeles, California, as follows:

- 1 a. Notice of the sale shall be published once a week for at least four (4)
2 weeks prior to the sale in at least one newspaper regularly issued
3 and of general circulation in Los Angeles County, California. Said
4 notice shall describe the property by both its street address and its
5 legal description, and shall contain the terms and conditions of sale
6 as set out herein.
- 7 b. The terms and conditions of sale shall be as follows:
 - 8 i. The Internal Revenue Service shall appraise the current fair
9 market value of the subject property (appraised value).
 - 10 ii. The minimum bid shall be 75% of the appraised value.
 - 11 iii. The United States of America may bid a credit against its
12 judgment and interest thereon, costs, and expenses, without
13 tender of cash.
 - 14 iv. The terms of sale as to all other persons or parties bidding shall
15 be cash. The successful bidder shall be required to deposit
16 with the Area Director cash equal to twenty percent (20%) of
17 the bidder's total bid immediately upon the property being
18 struck off and awarded to such bidder as the highest and best
19 bidder; and the remaining eighty percent (80%) of said
20 purchase price is to be paid on or before 5:00 p.m., within
21 three (3) days of the date of sale.
 - 22 v. Should the successful bidder fail to comply with the terms of
23 the sale, such bidder shall be liable to the United States for
24 twenty percent (20%) of the value of the property as a penalty,
25 and said deposit shall be paid over and delivered to the United
26 States to be applied toward payment of said penalty. Payment
27 of said penalty shall not be a credit on the judgment of the
28 United States.

- 1 c. Upon selling the subject real property, the Area Director, or his
2 delegate, shall prepare and file with this Court an accounting and
3 report of sale and shall give to the purchaser a Certificate of Sale
4 containing the description of the property sold and the price paid.
5 The accounting and report of sale shall be filed within ten (10) days
6 from the date of sale. If no objections have been filed in writing in
7 this cause with the Clerk of the Court, within fifteen (15) days of the
8 date of sale, the sale shall be confirmed without necessity of motion,
9 and the Area Director shall be directed by the Clerk of the Court to
10 execute and deliver his deed to said purchaser.
- 11 d. Possession of the property sold shall be yielded to the purchaser
12 upon the production of the Certificate of Sale and Deed; and if there
13 is a refusal to so yield, a Writ of Assistance may, without further
14 notice, be issued by the Clerk of this Court to compel delivery of the
15 property sold to the purchaser.
- 16 e. The Area Director shall apply the proceeds of sale to expenses of sale
17 and then in the following order of priorities:
- 18 i. First, in satisfaction of any unpaid property taxes owing to the
19 County of Los Angeles as secured against the subject real
20 property on the date of sale;
- 21 ii. Second, to Washington Mutual;
- 22 iii. Third, the United States of America;
- 23 iv. Fourth, if any surplus remains after making the aforesaid
24 payments, the Area Director, or his delegate, shall so report,
25 and return and pay the same into the registry of this Court for
26 distribution under further order of this Court.

1 9. Court hereby retains jurisdiction of this action for the purpose of
2 making proper distribution of any surplus of the proceeds of sale, pursuant to the
3 Area Director's Accounting and Report of Sale.

4

5 **IT IS SO ORDERED.**

6

7 DATED: 7/27/09

8

9

10 
11 HON. PHILIP S. GUTIERREZ
12 United States District Judge

13 Respectfully presented by:

14 THOMAS P. O'BRIEN
15 United States Attorney
16 SANDRA R. BROWN
17 Assistant United States Attorney
18 Chief, Tax Division

19

20 *//s// Daniel Layton*
21 DANIEL LAYTON
22 Assistant United States Attorney
23 Attorneys for United States of America

PROOF OF SERVICE BY MAILING

I am over the age of 18 and not a party to the within action. I am employed by the Office of the United States Attorney, Central District of California. My business address is 300 North Los Angeles Street, Suite 7211, Los Angeles, California 90012. On **June 26, 2009**, I served

June 26, 2009, I served

Proposed Judgment and Order of Sale

on each person or entity name below by enclosing a copy in an envelope addressed as shown below and placing the envelope for collection and mailing on the date and at the place shown below following our ordinary office practices. I am readily familiar with the practice of this office for collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid as shown in the Service list. SEE ATTACHED.

Date of mailing: **June 26, 2009.**

Place of mailing: Los Angeles, California

I declare under penalty of perjury under the laws of the United States of America
that the foregoing if true and correct.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on: June 26, 2009, Los Angeles, California.

M. J. Schmid

MARIA-LUISA O. BULLARD

USA V. YEE
CV 08-7602 PSG

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